

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

GREENBERRY'S FRANCHISING	)	
CORPORATION	)	
	)	
	)	
Plaintiff	)	
	)	
	)	
v.	)	
	)	
	)	Civil Action No. 3:10cv-00045-NKM
ALICE Y. PARK et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF MOTION OF DEFENDANT HAN HOLDING, INC.  
TO DISMISS ALL CLAIMS AGAINST HAN HOLDING, INC. FOR FAILURE TO  
STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

Defendant Han Holding, Inc. by counsel, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, files this Memorandum in Support of Motion of Defendant Han Holding, Inc. to Dismiss All Claims Against Han Holding, Inc. for Failure to State a Claim Upon Which Relief May be Granted.

**INTRODUCTION**

Plaintiff sues three individuals and two corporate entities on ten Counts of wrongdoing including Breach of Contract, Interference with Business Relations, Conspiracy, and various misuse of intellectual property rights, among other things. Although Defendant Han Holding, Inc. is mentioned sparingly in the introductory paragraphs of the Complaint, Han Holding, Inc. is not alleged to have participated in any of the ten Counts of wrongdoing alleged in the Complaint.

**STANDARD OF REVIEW**

A motion to dismiss under Fed. R. Civ. P. 12(b)(6) should be denied unless it appears beyond doubt that the plaintiff can prove no set of facts in support of its claim which would

entitle it to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). The Court must view the well-pleaded factual allegations in a light most favorable to the plaintiff, and accept the factual allegations in the plaintiff's complaint as true. *Flood v. New Hanover County*, 125 F.3d 249, 251 (4th Cir. 1997).

#### ARGUMENT

Since Defendant Han Holding, Inc. is not included in the allegations supporting any of its ten Counts of wrongdoing, the relief requested by Plaintiff may not be granted. Even if all facts as alleged in the Complaint are true and viewed in the light most favorable to the Plaintiff, the Plaintiff has failed to allege any wrongdoing by Defendant Han Holding, Inc. and therefore the relief requested may not be granted. For this reason, all Counts against Defendant Han Holding, Inc. should be dismissed.

#### CONCLUSION

Since Defendant Han Holding, Inc. is not included in any allegation in Plaintiff's Complaint, all claims against Defendant Han Holding, Inc. should be dismissed under Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

Dated: September 29, 2010.

HAN HOLDING, INC.  
By Counsel

s/ Andrew E. Macfarlane  
Andrew E. Macfarlane  
Virginia State Bar Number 75144  
Lohrmann & Rim, P.C.  
7700 Little River Turnpike, Suite 506  
Annandale, VA 22003  
Phone 703 941 3700  
Fax 703 941 3782

**CERTIFICATE OF SERVICE**

I hereby certify that on September 29, 2010 I electronically filed the foregoing with the clerk of the court using the CM/EFC system, which will send electronic notification of such filing to all counsel of record.

s/ Andrew E. Macfarlane  
Andrew E. Macfarlane  
Virginia State Bar Number 75144  
Lohrmann & Rim, P.C.  
7700 Little River Turnpike, Suite 506  
Annandale, VA 22003  
Phone 703 941 3700  
Fax 703 941 3782